

REFERENCE TITLE: DOA; large loss support unit

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

# HB 2152

Introduced by  
Representative Paton

AN ACT

AMENDING SECTIONS 41-621 AND 41-622, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 3.1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-626; RELATING TO THE DEPARTMENT OF ADMINISTRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-621, Arizona Revised Statutes, is amended to  
3 read:

4 41-621. Purchase of insurance; coverage; limitations;  
5 exclusions

6 A. The department of administration shall obtain insurance against  
7 loss, to the extent it is determined necessary and in the best interests of  
8 the state as provided in subsection F of this section, on the following:

9 1. All state owned buildings, including those of the universities,  
10 excluding buildings of community colleges, whether financed in whole or in  
11 part by state monies, or buildings in which the state has an insurable  
12 interest as determined by the department of administration.

13 2. Contents in any buildings owned, leased or rented, in whole or in  
14 part, by or to the state, excluding buildings of community colleges, and  
15 reported to the department of administration.

16 3. The state and its departments, agencies, boards and commissions and  
17 all officers, agents and employees thereof and such others as may be  
18 necessary to accomplish the functions or business of the state and its  
19 departments, agencies, boards and commissions against liability for acts or  
20 omissions of any nature while acting in authorized governmental or  
21 proprietary capacities and in the course and scope of employment or  
22 authorization except as prescribed by this chapter.

23 4. All personal property reported to the department of administration,  
24 including vehicles and aircraft owned by the state and its departments,  
25 agencies, boards and commissions and all non-owned personal property which is  
26 under the clear responsibility of this state because of written leases or  
27 other written agreements.

28 5. The state and its departments, agencies, boards and commissions  
29 against casualty, use and occupancy and liability losses of every nature  
30 except as prescribed by this chapter.

31 6. Workers' compensation and employers' liability insurance.

32 7. Design and construction of buildings, roads, environmental  
33 remediations and other construction projects.

34 8. Other exposures to loss where insurance may be required to protect  
35 this state and its departments, agencies, boards and commissions and all  
36 officers, agents and employees acting in the course and scope of employment  
37 or authorization except as prescribed by this chapter.

38 B. To the extent it is determined necessary and in the best interests  
39 of the state, the department of administration shall obtain insurance or  
40 provide for state self-insurance against property damage caused by clients  
41 and liability coverage resulting from, ~~the~~ the direct or incidental care of  
42 clients participating in programs of the state and its departments, agencies,  
43 boards or commissions relating to custodial care. The insurable programs  
44 shall include foster care, programs for the developmentally disabled, an  
45 independent living program pursuant to section 8-521 and respite-sitter

1 service programs. The department shall obtain insurance or provide for state  
2 self-insurance pursuant to this subsection to protect the clients  
3 participating in these programs and individual providers of these program  
4 services on behalf of the state and its departments, agencies, boards or  
5 commissions. The insurance provided under this subsection does not include  
6 medical or workers' compensation coverage for providers. The department may  
7 include in its annual budget request pursuant to section 41-622, subsection D  
8 a charge for the insurance or self-insurance provided in this subsection. To  
9 assist in carrying out the provisions of this subsection, the department  
10 shall establish a seven member advisory board in accordance with the  
11 following provisions:

12 1. The board shall consist of three members appointed by the director  
13 of the department of administration, at least one of whom shall be a foster  
14 parent, two members appointed by the director of the department of economic  
15 security, one member appointed by the director of the state department of  
16 corrections, and one member appointed by the administrative director of the  
17 courts.

18 2. The board shall elect a chairman from among its members.

19 3. The board shall hold at least two meetings a year or shall meet at  
20 the call of the chairman.

21 4. Board members shall serve for three year terms.

22 5. Board members are not eligible to receive compensation but are  
23 eligible for reimbursement of expenses pursuant to title 38, chapter 4,  
24 article 2.

25 6. The board shall provide advice to the department regarding coverage  
26 and administration of the provisions of this subsection and shall assist the  
27 department in coordinating its activities pursuant to this subsection with  
28 state departments, agencies, boards and commissions.

29 C. The department of administration may obtain insurance against  
30 loss, to the extent it is determined necessary and in the best interests of  
31 the state as provided in subsection F of this section for the professional  
32 liability of individual physicians and psychiatrists who provide services  
33 under a contract with the state department of corrections. Coverage is  
34 limited to acts and omissions committed inside a state department of  
35 corrections facility while in the performance of the contract and to  
36 individual physicians and psychiatrists who demonstrate to the satisfaction  
37 of the state department of corrections that they cannot otherwise obtain  
38 professional liability coverage for the services required by the contract.

39 ~~The director of the department of administration may impose on the state~~  
40 ~~department of corrections a deductible of not more than ten thousand dollars~~  
41 ~~per loss that arises out of a professional liability claim pursuant to this~~  
42 ~~subsection. Deductible amounts established by the director shall be subject~~  
43 ~~to annual review by the joint legislative budget committee.~~

44 D. The department of administration may obtain property, liability,  
45 disability or workers' compensation insurance, self-insure or develop risk

1 retention pools to provide for payment of property loss or casualty claims or  
2 disability insurance claims against contractors of this state with the  
3 approval of the joint legislative budget committee. With respect to  
4 insurance, self-insurance or risk retention pools for contractors licensed  
5 and contracted to do work for this state, the coverage afforded applies with  
6 respect to the conduct of the business entity of that contractor. The pool  
7 is available to all contractors regardless of the amount that the state  
8 contracted work bears in relation to the amount of nonstate contracted work.  
9 The contractor shall be terminated from the pool if the contractor ceases to  
10 be a state contractor.

11 E. The department of administration may determine, in the best  
12 interests of the state, that state self-insurance is necessary or desirable  
13 and, if that decision is made, shall provide for state self-insurance for  
14 losses arising out of state property, liability or workers' compensation  
15 claims prescribed by subsection A of this section. If the department of  
16 administration provides state self-insurance, such coverage shall be excess  
17 over any other valid and collectible insurance. ~~The director of the~~  
18 ~~department of administration may impose on state departments, agencies,~~  
19 ~~boards and commissions a deductible of not more than ten thousand dollars per~~  
20 ~~loss that arises out of a property, liability or workers' compensation loss~~  
21 ~~pursuant to this subsection. Deductible amounts established by the director~~  
22 ~~shall be subject to annual review by the joint legislative budget committee.~~

23 F. In carrying out the provisions of this chapter, the department of  
24 administration shall establish and provide the state with some or all of the  
25 necessary risk management services, or shall contract for risk management  
26 services pursuant to chapter 23 of this title, as the director of the  
27 department of administration deems necessary in the best interest of the  
28 state, and may, in addition to other specifications of such coverage as  
29 deemed necessary, determine self-insurance to be established. The provisions  
30 of chapter 23 of this title shall not apply to the department of  
31 administration's procurement of insurance to cover losses arising out of  
32 state property or liability claims prescribed in subsections A and D of this  
33 section or excess loss insurance for the state's workers' compensation  
34 liability for individual or aggregate claims, or both, in such amounts and at  
35 such primary retention levels as the department of administration deems in  
36 the best interest of the state. In purchasing insurance to cover losses  
37 arising out of state property or liability claims prescribed by subsection A  
38 of this section, the department of administration is not subject to the  
39 provisions of title 20, chapter 2, article 5.

40 G. No successful bidder for risk management services pursuant to this  
41 section shall be entitled to receive directly or indirectly any sales  
42 commission, contingent commission, excess profit commission, or other  
43 commissions, or anything of value, as payment for the risk management  
44 services except those amounts received directly from this state as payment  
45 for the risk management services.

1           H. The department of administration shall pay for purchased risk  
2 management services, premiums for insurance on state property and state  
3 liability and workers' compensation pursuant to the provisions of this  
4 chapter.

5           I. A state officer, agent or employee acting in good faith, without  
6 wanton disregard of his statutory duties and under the authority of an  
7 enactment that is subsequently declared to be unconstitutional, invalid or  
8 inapplicable, is not personally liable for an injury or damage caused thereby  
9 except to the extent that he would have been personally liable had the  
10 enactment been constitutional, valid and applicable.

11           J. A state officer, agent or employee, except as otherwise provided by  
12 statute, is not personally liable for an injury or damage resulting from his  
13 act or omission in a public official capacity where the act or omission was  
14 the result of the exercise of the discretion vested in him if the exercise of  
15 the discretion was done in good faith without wanton disregard of his  
16 statutory duties.

17           K. The state and its departments, agencies, boards and commissions are  
18 immune from liability for losses arising out of a judgment for willful and  
19 wanton conduct resulting in punitive or exemplary damages.

20           L. The following exclusions shall apply to subsections A, B and E of  
21 this section:

22           1. Losses against this state and its departments, agencies, boards and  
23 commissions that arise out of and are directly attributable to an act or  
24 omission determined by a court to be a felony by a person who is provided  
25 coverage pursuant to this article unless the state knew of the person's  
26 propensity for that action, except those acts arising out of the operation or  
27 use of a motor vehicle.

28           2. Losses arising out of contractual breaches.

29           M. If self-insurance coverage is determined to exist, the attorney  
30 general, with funds provided by the department of administration, shall  
31 provide for the defense, either through his office or by appointment of  
32 outside legal counsel, of the state and its departments, agencies, boards and  
33 commissions and all officers, agents and employees thereof and such others as  
34 are insured by the department of administration for or on account of their  
35 acts or omissions covered pursuant to this chapter. All state departments,  
36 agencies, boards and commissions, all officers, agents and employees thereof  
37 and such others as are insured by the department of administration shall  
38 cooperate fully with the attorney general and department of administration in  
39 the defense of claims arising pursuant to this chapter.

40           N. A claim for liability damages made pursuant to this chapter may be  
41 settled and payment made up to the amount of twenty-five thousand dollars or  
42 such higher limit as may be established by the joint legislative budget  
43 committee with the approval of the director of the department of  
44 administration. A claim over the amount of twenty-five thousand dollars up  
45 to fifty thousand dollars or such higher limit as may be established by the

1 joint legislative budget committee may be settled and payment made with the  
2 approval of the director of the department of administration and the attorney  
3 general. Any claim over the amount of fifty thousand dollars or such higher  
4 limit as may be established by the joint legislative budget committee may be  
5 settled and payment made with the approval of the director of the department  
6 of administration, the attorney general and the joint legislative budget  
7 committee. If it is in the best interest of this state, the joint  
8 legislative budget committee may establish higher settlement limits. Any  
9 settlements involving amounts in excess of fifty thousand dollars or such  
10 higher limit as may be established by the joint legislative budget committee  
11 shall be approved by the department of administration, the attorney general  
12 and the joint legislative budget committee pursuant to the authority granted.  
13 The settlement of liability claims shall be solely the authority of the  
14 department of administration, the attorney general and the joint legislative  
15 budget committee. No state department, agency, board or commission or any  
16 officer, agent or employee of this state may voluntarily make any payment,  
17 assume any obligation, incur any expense or maintain the individual right of  
18 consent for liability claims made pursuant to this chapter except as provided  
19 by this section.

20 O. Neither the authority provided by this section to insure, nor the  
21 exercise of such authority, shall:

22 1. Impose any liability on this state or the departments, agencies,  
23 boards and commissions or any officers, agents and employees of this state  
24 unless such liability otherwise exists.

25 2. Impair any defense this state or the departments, agencies, boards  
26 and commissions or any officers, agents and employees of this state otherwise  
27 may have.

28 P. The department of administration shall pay, on behalf of any state  
29 officer, agent or employee, any damages, excluding punitive damages, for  
30 which the officer, agent or employee becomes legally responsible if the acts  
31 or omissions resulting in liability were within the officer's, agent's or  
32 employee's course and scope of employment. The department of administration  
33 may pay for all damages however designated which the officer, agent or  
34 employee becomes legally responsible for if the acts or omissions resulting  
35 in liability are determined by the director of the department of  
36 administration to be within the person's course and scope of employment.

37 Q. The department of administration shall adopt such rules as are  
38 deemed necessary to carry out, implement and limit the provisions of this  
39 chapter.

40 R. For the purposes of determining whether a state officer, agent or  
41 employee is entitled to coverage under this chapter, "within the course and  
42 scope of employment or authorization" means:

43 1. The acts or omissions that the state officer, agent or employee is  
44 employed or authorized to perform.

1           2. The acts or omissions of the state officer, agent or employee occur  
2 substantially within the authorized time and space limit.

3           3. The acts or omissions are activated at least in part by a purpose  
4 to serve this state or its departments, agencies, boards or commissions.

5           S. To the extent it is determined necessary and in the best interest  
6 of this state, the department of administration may obtain design and  
7 construction insurance or provide for self-insurance against property damage  
8 caused by this state, its departments, agencies, boards and commissions and  
9 all officers and employees of this state in connection with the construction  
10 of public works projects. Workers' compensation liability insurance may be  
11 purchased to cover both general contractors and subcontractors doing work on  
12 a specific contracted work site. The department may include in its annual  
13 budget request, pursuant to section 41-622, subsection D, the cost of the  
14 insurance purchased or provided. In connection with the construction of  
15 public works projects, the department of administration may also use an  
16 owner-controlled or wrap-up insurance program if all of the following  
17 conditions are met:

18           1. The total cost of the project is over fifty million dollars.

19           2. The program maintains completed operations coverage for a term  
20 during which coverage is reasonably commercially available as determined by  
21 the director of the department of insurance, but in no event for less than  
22 three years.

23           3. Bid specifications clearly specify for all bidders the insurance  
24 coverage provided under the program and the minimum safety requirements that  
25 shall be met.

26           4. The program does not prohibit a contractor or subcontractor from  
27 purchasing any additional insurance coverage that a contractor believes is  
28 necessary for protection from any liability arising out of the contract. The  
29 cost of the additional insurance shall not be passed through to this state on  
30 a contract bid.

31           5. The program does not include surety insurance.

32           T. The state may purchase an owner-controlled or wrap-up policy that  
33 has a deductible or self-insured retention as long as the deductible or  
34 self-insured retention does not exceed one million dollars.

35           U. For the purposes of subsections S and T of this section:

36           1. "Owner-controlled or wrap-up insurance" means a series of insurance  
37 policies issued to cover this state and all of the contractors,  
38 subcontractors, architects and engineers on a specified contracted work site  
39 for purposes of general liability, property damage and workers' compensation.

40           2. "Specific contracted work site" means construction being performed  
41 at one site or a series of contiguous sites separated only by a street,  
42 roadway, waterway or railroad right-of-way, or along a continuous system for  
43 the provision of water and power.

V. Notwithstanding any other statute the department of administration may:

1. Limit the liability of a person who contracts to provide goods, software or other services to this state.
2. Allow the person to disclaim incidental or consequential damages.
3. Indemnify or hold harmless any party to the contract.

Sec. 2. Section 41-622, Arizona Revised Statutes, is amended to read:

41-622. Risk management revolving fund; construction insurance fund; self-insured losses and administrative costs; budget requests

A. A risk management revolving fund and a construction insurance fund are established in the department of administration for the purchase of insurance, risk management services including loss prevention services, payment of self-insured losses pursuant to section 41-621, subsections A, B, C, D and E and administrative costs necessary to carry out risk management services prescribed by section 41-621. The department of administration shall pay for claims processing costs, including adjusting costs, legal defense costs and attorney fees, for any portion of claims falling within state self-insurance coverage pursuant to ~~the provisions of~~ this chapter.

B. The risk management revolving fund in the department of administration shall exclude any property loss arising from damage due to mechanical or electrical breakdown, ordinary wear and tear or obsolescence, nonserviceability, mysterious disappearance or inventory shortage. Mysterious disappearance shall not be construed to include a loss if there is a reasonable presumption of theft. The department of administration, subject to chapter 23 of this title, may advance or disburse monies to contractors who rebuild state property as a result of self-insured losses or to persons who supply goods or services in replacing self-insured losses. The department of administration shall pay for claims processing costs, including adjusting costs, legal defense costs and attorney fees, for any portion of claims falling within state self-insurance coverage pursuant to ~~the provisions of~~ this chapter.

C. To qualify for payment for loss by theft or burglary of state-owned personal property, an agency, department, board or commission must show evidence of forcible entry or that threat of violence was used in the taking of the property or there must be a reasonable presumption of theft.

D. The department of administration shall present to the legislature not later than September 1 of each year, in accordance with ~~the provisions of~~ section 35-113, a budget request based on the actuarial needs for liability losses, workers' compensation liability losses, property losses and risk management administrative costs. The budget request shall be broken down to reflect the amount of monies to be charged to each of the state departments, agencies, boards and commissions and any others insured under this chapter. Any state department, agency, board or commission that has an amount for insurance included in its appropriation, whether specifically stated or not,



1 and any state department, agency, board or commission or others insured under  
2 this chapter that receive funds other than those appropriated shall be billed  
3 for the proportionate share of the charges for insurance or self-insurance by  
4 the department of administration. In collecting the agency billings for risk  
5 management charges, the director of the department of administration may  
6 transfer the entire amount of the billing for appropriated insurance from the  
7 agency account into the fund designated in subsection A of this section at  
8 the start of the fiscal year or in periodic payments during the fiscal year  
9 if necessitated by cash flow restrictions. Those entities or persons insured  
10 under ~~the provisions of~~ this chapter that are not state agencies,  
11 departments, boards, commissions or employees or that do not receive funding  
12 from state sources shall pay annually the amount required by risk management  
13 to the risk management revolving fund or construction insurance fund before  
14 the coverage continues for existing claims or begins for new claims made.  
15 The construction insurance fund shall receive monies necessary to pay the  
16 cost of purchasing insurance, providing self-insurance or administering the  
17 fund as authorized by section 41-621, subsection S from each capital  
18 construction project budget at rates established by the department of  
19 administration and reviewed by the joint committee on capital review. These  
20 amounts shall be included in the budget request. All monies received from  
21 all billings shall be deposited in the funds as identified in subsection A of  
22 this section.

23 E. IN ADDITION TO THE AGENCY CHARGES PRESCRIBED IN SUBSECTION D OF  
24 THIS SECTION, THE DEPARTMENT OF ADMINISTRATION SHALL BILL A LOSS  
25 PARTICIPATION CHARGE FOR LIABILITY CLAIMS THAT ARE TWO HUNDRED FIFTY THOUSAND  
26 DOLLARS OR MORE AND THAT ARE SETTLED OR ADJUDICATED SINCE THE PRECEDING  
27 BILLING. EACH QUALIFIED CLAIM SHALL BE ASSESSED A PARTICIPATION CHARGE OF  
28 ONE THOUSAND DOLLARS PLUS TEN PER CENT OF THE AMOUNT SETTLED OR ADJUDICATED  
29 THAT IS MORE THAN TWO HUNDRED FIFTY THOUSAND DOLLARS. THE MAXIMUM  
30 PARTICIPATION CHARGE SHALL NOT EXCEED TEN THOUSAND DOLLARS PER CLAIM. THE  
31 DEPARTMENT SHALL ITEMIZE THE PARTICIPATION CHARGE TO REFLECT THE AMOUNT OF  
32 MONIES TO BE CHARGED TO EACH OF THE STATE DEPARTMENTS, AGENCIES, BOARDS AND  
33 COMMISSIONS AND ANY OTHERS INSURED UNDER THIS CHAPTER. THE DEPARTMENT OF  
34 ADMINISTRATION SHALL BILL ANY STATE DEPARTMENT, AGENCY, BOARD OR COMMISSION  
35 THAT HAS AN AMOUNT FOR THE PARTICIPATION CHARGE INCLUDED IN ITS  
36 APPROPRIATION, WHETHER SPECIFICALLY STATED OR NOT, AND ANY STATE DEPARTMENT,  
37 AGENCY, BOARD OR COMMISSION OR OTHERS INSURED UNDER THIS CHAPTER THAT RECEIVE  
38 MONIES OTHER THAN THOSE APPROPRIATED. IN COLLECTING THE AGENCY BILLINGS FOR  
39 RISK MANAGEMENT PARTICIPATION CHARGES, THE DIRECTOR OF THE DEPARTMENT OF  
40 ADMINISTRATION MAY TRANSFER THE ENTIRE AMOUNT OF THE BILLING FOR APPROPRIATED  
41 INSURANCE FROM THE AGENCY ACCOUNT INTO THE FUND DESIGNATED IN SUBSECTION A OF  
42 THIS SECTION AT THE START OF THE FISCAL YEAR OR IN PERIODIC PAYMENTS DURING  
43 THE FISCAL YEAR AS REQUIRED BY CASH FLOW RESTRICTIONS. THOSE ENTITIES OR  
44 PERSONS INSURED UNDER THIS CHAPTER THAT ARE NOT STATE AGENCIES, DEPARTMENTS,  
45 BOARDS, COMMISSIONS OR EMPLOYEES OR THAT DO NOT RECEIVE FUNDING FROM STATE

1 SOURCES SHALL ANNUALLY PAY THE PARTICIPATION CHARGE REQUIRED BY RISK  
 2 MANAGEMENT TO THE RISK MANAGEMENT REVOLVING FUND OR CONSTRUCTION INSURANCE  
 3 FUND BEFORE THE COVERAGE CONTINUES FOR EXISTING CLAIMS OR BEGINS FOR NEW  
 4 CLAIMS MADE.

5 ~~E.~~ F. All monies recovered by the state pursuant to litigation,  
 6 recovery, salvage value of damaged property, proportionate share monies from  
 7 any other existing state funds, or otherwise, for damages relating to either  
 8 a liability, property or workers' compensation loss for which monies from the  
 9 risk management revolving fund or construction insurance fund have been or  
 10 will be paid shall be deposited in the respective fund.

11 ~~F.~~ G. If a revolving fund is projected to be exhausted while the  
 12 legislature is in session, a special appropriation may be requested by the  
 13 department of administration for monies to meet the needs of the funds. If  
 14 the funds are exhausted at a time when the legislature is not in session, any  
 15 final judgment shall accrue interest and shall be payable upon appropriation  
 16 in the next succeeding regular session of the legislature. Interest on any  
 17 judgment against this state paid for out of the risk management revolving  
 18 fund shall accrue at the average yield offered by United States treasury  
 19 bills during the course of the appeal and shall be paid in accordance with  
 20 this section. If the appeal is lost by this state, the judgment amount plus  
 21 interest at the rate prescribed in this subsection shall be paid.

22 ~~G.~~ H. All monies deposited in the risk management revolving fund are  
 23 subject to annual legislative appropriation to the department of  
 24 administration for use pursuant to this section. Monies in the construction  
 25 insurance fund are continuously appropriated for the fund purposes. The  
 26 funds established by subsection A of this section are exempt from the  
 27 provisions of section 35-190 relating to lapsing of appropriations.

28 ~~H.~~ I. A ten thousand dollar death benefit shall be paid from the risk  
 29 management revolving fund to the estate of a deceased volunteer, who is  
 30 registered as a volunteer by the agency, board or commission, or to an  
 31 employee who is not subject to ~~the provisions of~~ section 38-651.02, upon  
 32 proof of death while in the course and scope of duties as prescribed in  
 33 section 41-621, subsection P for any state agency, board or commission.

34 Sec. 3. Title 41, chapter 3.1, article 1, Arizona Revised Statutes, is  
 35 amended by adding section 41-626, to read:

36 41-626. Large loss support unit; duties; immunity;  
 37 admissibility of documents

38 A. THE DEPARTMENT OF ADMINISTRATION SHALL ESTABLISH A LARGE LOSS  
 39 SUPPORT UNIT. THE LARGE LOSS SUPPORT UNIT SHALL INVESTIGATE THE DEATH OF A  
 40 PERSON, SERIOUS INJURY TO A PERSON OR OTHER ALLEGED SUBSTANTIAL OR SUSPECTED  
 41 LOSS THAT IS CAUSED AT LEAST IN PART BY THE ACTIONS OF A STATE AGENCY, UNLESS  
 42 THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION OR THE DIRECTOR'S DESIGNEE  
 43 DETERMINES THAT THE INCIDENT DOES NOT MERIT REVIEW. THE LARGE LOSS SUPPORT  
 44 UNIT MAY ALSO INVESTIGATE ANY OTHER SUBSTANTIAL LOSS OR POTENTIAL LOSS AS A  
 45 RESULT OF AGENCY POLICIES, LITIGATION OR DEFENSE PRACTICES OR OTHER

1 MANAGEMENT PRACTICES. THE DIRECTOR'S OR THE DIRECTOR DESIGNEE'S DECISION  
2 PURSUANT TO THIS SECTION TO REVIEW OR NOT REVIEW ANY LARGE LOSS SHALL NOT BE  
3 ADMITTED INTO EVIDENCE IN A CIVIL OR ADMINISTRATIVE PROCEEDING.

4 B. THE LARGE LOSS SUPPORT UNIT INVESTIGATIONS MAY USE INDEPENDENT  
5 CONSULTANTS, CONTRACTORS OR STATE EMPLOYEES AND SHALL INCLUDE AT LEAST ONE  
6 INDIVIDUAL HAVING EXPERTISE THAT IS RELATED TO THE MATTER UNDER REVIEW.

7 C. THE LARGE LOSS SUPPORT UNIT SHALL REVIEW THE DEATH, SERIOUS INJURY,  
8 OR OTHER SUBSTANTIAL OR SUSPECTED LOSS AND THE CIRCUMSTANCES SURROUNDING IT,  
9 EVALUATE ITS CAUSES AND RECOMMEND STEPS TO REDUCE THE RISK OF THESE INCIDENTS  
10 OCCURRING IN THE FUTURE. THE LARGE LOSS SUPPORT UNIT SHALL ACCOMPLISH THESE  
11 TASKS BY REVIEWING RELEVANT DOCUMENTS, INTERVIEWING PERSONS WITH RELEVANT  
12 KNOWLEDGE AND REPORTING ITS RECOMMENDATIONS IN WRITING TO THE DIRECTOR OF THE  
13 DEPARTMENT OF ADMINISTRATION, OR THE DIRECTOR'S DESIGNEE, AND THE DIRECTOR OF  
14 THE AGENCY INVOLVED IN THE LOSS OR RISK OF LOSS. THE LARGE LOSS SUPPORT UNIT  
15 SHALL NOT DISCLOSE THE CONTENTS OF ANY DOCUMENTS REQUIRED BY LAW TO BE KEPT  
16 CONFIDENTIAL.

17 D. PURSUANT TO GUIDELINES ESTABLISHED BY THE DIRECTOR, STATE AGENCIES  
18 SHALL NOTIFY THE DEPARTMENT OF ADMINISTRATION IMMEDIATELY ON BECOMING AWARE  
19 OF ANY DEATH, SERIOUS INJURY OR OTHER SUBSTANTIAL OR SUSPECTED LOSS THAT IS  
20 ALLEGED OR SUSPECTED TO HAVE BEEN CAUSED AT LEAST IN PART BY THE ACTIONS OF A  
21 STATE AGENCY. STATE AGENCIES SHALL COOPERATE WITH AND PROVIDE MEMBERS OF THE  
22 LARGE LOSS SUPPORT UNIT READY ACCESS TO RELEVANT DOCUMENTS IN THEIR  
23 POSSESSION AND READY ACCESS TO THEIR EMPLOYEES.

24 E. THE DIRECTOR, THE DIRECTOR'S DESIGNEE AND MEMBERS OF THE LARGE LOSS  
25 SUPPORT UNIT ARE GRANTED IMMUNITY FROM BEING EXAMINED IN A CIVIL OR  
26 ADMINISTRATIVE PROCEEDING AS TO:

- 27 1. THE WORK OF THE LARGE LOSS SUPPORT UNIT.
- 28 2. THE INCIDENT UNDER REVIEW.
- 29 3. THE STATEMENTS, DELIBERATIONS, THOUGHTS, ANALYSES OR IMPRESSIONS  
30 RELATING TO THE WORK OF THE LARGE LOSS SUPPORT UNIT.
- 31 4. ANY PERSON WHO PROVIDED INFORMATION TO THE LARGE LOSS SUPPORT UNIT  
32 THAT RELATES TO THE WORK OF THE LARGE LOSS SUPPORT UNIT OR THE INCIDENT UNDER  
33 REVIEW.

34 F. DOCUMENTS THAT ARE PREPARED BY OR FOR THE LARGE LOSS SUPPORT UNIT  
35 ARE INADMISSIBLE AND MAY NOT BE USED IN A CIVIL OR ADMINISTRATIVE PROCEEDING,  
36 EXCEPT THAT EXCERPTS FROM ANY DOCUMENT MAY BE USED TO IMPEACH THE CREDIBILITY  
37 OF A WITNESS IF THE PARTY WISHING TO USE THE EXCERPT FIRST SHOWS THE COURT BY  
38 CLEAR AND CONVINCING EVIDENCE THAT THE WITNESS, IN TESTIMONY PROVIDED IN  
39 DEPOSITION OR AT TRIAL IN THE PRESENT PROCEEDING, HAS CONTRADICTED A PREVIOUS  
40 STATEMENT BY THE WITNESS TO THE LARGE LOSS SUPPORT UNIT ON AN ISSUE OF FACT  
41 THAT IS MATERIAL TO THE PRESENT PROCEEDING. IN THAT CASE, THE PARTY MAY USE  
42 ONLY THE EXCERPT THAT IS NECESSARY TO DEMONSTRATE THE CONTRADICTION.